

REMARKS

This Amendment is submitted in reply to the Final Office Action dated August 18, 2003. Applicants respectfully request reconsideration and further examination of the patent application under 37 C.F.R. § 1.115.

Upon entry of the foregoing Amendment, Claims 1, 5-9, 37 and 41-42 are pending in the application. The amendments are believed to introduce no new matter, and their entry is respectfully requested. Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider and withdraw all outstanding rejections.

Summary of the Examiner's Rejections

Claims 1, 5-7, 9-10, 14, 16 and 18 were rejected under 35 U.S.C. 102(b) as being anticipated by McPherson (US 5,096,676).

Claims 5-6, 8, 14-17, 19-20, 37-39 and 41-42 were rejected under 35 U.S.C. 103(a) as being unpatentable over McPherson (US 5,096,676) in view of Cassin (US 5,910,287) and/or Knebel (US 6,503,456) and/or Turner (US 6,340,589) and/or Santarsiero (US 6,296,673).

Claims 1, 5-7, 9-10, 14, 16, 18 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hol (WO 00/00678) in view of McPherson (US 5,096,676).

Claims 5-6, 8, 14-17, 19-20 and 37-42 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hol (WO 00/00678) in view of McPherson (US 5,096,676) and in further view of Cassin (US 5,910,287) and/or Knebel (US 6,503,456) and/or Turner (US 6,340,589) and/or Santarsiero (US 6,296,673).

Claims 1, 5-7, 9-10, 14, 16, 18 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted Prior Art (FIGS. 2A-2C) in view of McPherson (US 5,096,676).

Claims 5-6, 8, 14-17, 19-20, 37-39 and 41-42 were rejected under 35 U.S.C. 103(a) as being unpatentable Applicant's admitted Prior Art (FIGS. 2A-2C) in view of McPherson (US 5,096,676) and in further view of Cassin (US 5,910,287) and/or Knebel (US 6,503,456) and/or Turner (US 6,340,589) and/or Santarsiero (US 6,296,673).

Summary of Amendment

Applicants have cancelled Claims 10, 14-20 and 38-40 (without prejudice) and amended Claims 1 and 37 to more particularly define the present invention.

Remarks regarding § 102(b) and 103(a) rejections

Applicants respectfully submit that amended independent Claims 1 and 37 are patentable over McPherson, Hol, Applicant's admitted Prior Art (FIGS. 2A-2C), Turner, Cassin, Knebel and/or Santarsiero. The claimed invention as recited in amended independent Claim 1 (for example) follows:

1. A microplate, comprising:
 - a frame including a plurality of wells formed therein, each well including:
 - a first well having a relatively small reservoir with a substantially concaved bottom; and
 - a second well having a relatively large reservoir, wherein said first well wherein said first well is not entirely located within said second well nor is said first well entirely located outside of said second well but instead said first well has a portion of which that overlaps said second well. (emphasis on the distinguishing limitations).

Amended independent Claim 37 contains the same distinguishing limitations which are recited in pending independent Claim 1.

The teachings of McPherson, Hol, Applicant's admitted Prior Art, Turner, Cassin, Knebel and/or Santarsiero differ significantly from the present invention as recited in Claims 1 and 37. The amended independent Claims 1 and 37 each recite a limitation where a well has a small first well and a large second well and wherein the first well is not entirely located within the second well nor is the first well entirely located outside of the second well but instead the first well has a portion of which that overlaps the second well (see, e.g., FIGS. 3A-3C in the patent application). The cited prior art does not disclose, teach or suggest this particular configuration of a well as recited in pending independent Claims 1 and 37. In fact, the cited prior art effectively teaches away from this particular configuration of a well as recited in pending independent Claims 1 and 37. In particular, the cited prior art including McPherson (FIG. 3) and Santarsiero (see FIG. 3D) teach where each well has a small first well that is entirely located within a large second well. Or, the cited prior art including Hol (see FIG. 1 in corresponding US 6,039,804) and Applicant's admitted Prior Art teach where each well has a small first well that is entirely located outside of a large second well. Turner, Cassin and Knebel disclose microplates that have a plurality of wells but none of which include a small well and a large well. As such, none of the cited prior art teaches a plate where each well includes a small first well having a portion of which that overlaps a large second well as recited in pending independent Claims 1 and 37.

Accordingly, Applicants respectfully submit that the aforementioned substantial difference between McPherson, Hol, Turner, Cassin, Knebel and/or Santarsiero and the amended independent Claims 1 and 37 is indicative of the patentability of the present invention.

It should be noted that the Greiner microplate which the Examiner stated was Applicant's admitted Prior Art (FIGS. 2A-2C) is not "admitted" Prior Art. The Applicants specifically indicated in the patent application that the Greiner microplate shown in FIGS. 2A-2C was "possible prior art" (see, page 3, lines 15-16). The inventors of the present invention were not sure when the Greiner microplate was first developed in relation to the development of the present invention. As such, it would not be proper to classify the Greiner plate shown in FIGS. 2A-2C as "admitted" prior art.

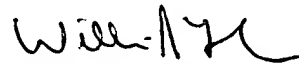
Conclusion

Applicants respectfully submit that all of the stated grounds of rejections have been properly traversed, accommodated, or rendered moot. Accordingly, Applicants respectfully request reconsideration of all outstanding rejections and allowance of pending Claims 1, 5-9, 37 and 41-42.

If the Examiner believes, for any reasons, that personal communication will expedite prosecution of this application the Examiner is invited to telephone the undersigned at the number provided.

It is believed that a fee is not required for this paper. If this is incorrect, the Commissioner is authorized to charge any fees which may be required for this paper to Deposit Account No. 50-1481.

Respectfully submitted,



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